

AMENDED IN ASSEMBLY JUNE 25, 2009

SENATE BILL

No. 80

Introduced by Committee on Budget and Fiscal Review

January 20, 2009

An act ~~relating to the Budget Act of 2009~~, to amend Section 33685 of the Health and Safety Code, relating to community redevelopment, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 80, as amended, Committee on Budget and Fiscal Review. ~~Budget Act of 2009.~~ *Community redevelopment: Education Revenue Augmentation Fund.*

(1) Existing property tax law requires the county auditor, for each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally requires that each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined. Existing law requires a redevelopment agency to make a remittance, as determined by the Director of Finance prior to May 10, to the county Educational Revenue Augmentation Fund (ERAF) for the 2008–09 fiscal year and authorizes a legislative body to remit, in lieu of making that payment prior to May 10, 2009, a designated amount to the county auditor for deposit in the county ERAF.

This bill instead would require a redevelopment agency to make the remittance on or before June 30, 2009 of that fiscal year.

The bill would require the county auditor-controller to distribute funds that are remitted to the county ERAF by a city-operated or

county-operated redevelopment agency only to a K-12 school district, as defined, that is located partially or entirely within the project area of the redevelopment agency in an amount proportional to the average daily attendance of each school district. The bill would require the county superintendent of schools to provide the average daily attendance reported for each school district as of the Second Proportional Apportionment for the 2008–09 fiscal year to the county auditor-controller. The bill would require the county auditor-controller to notify, on or before October 1, 2009, the Department of Finance of the amount of funding apportioned to each school district pursuant to this act.

The bill would also require, for the 2008–09 fiscal year, the amount apportioned by the Superintendent of Public Instruction to each school district pursuant to a specified provision of existing law and, for purposes of making the computations required by Section 8 of Article XVI of the California Constitution, specified General Fund revenues appropriated for school districts, to be reduced by the total amount of ERAF moneys a school district receives, regardless of the actual date the funds are received from each redevelopment agency.

By imposing new duties upon local tax officials and school districts with regard to the annual allocation of these revenues, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2009.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. (a) The Legislature finds and declares all of the*
2 *following:*

3 *(1) The effectuation of the primary purposes of the Community*
4 *Redevelopment Law, including job creation, attracting new private*
5 *commercial investments, the physical and social improvement of*
6 *residential neighborhoods, and the provision and maintenance of*
7 *low- and moderate-income housing, is dependent upon the*
8 *existence of an adequate and financially solvent school system*
9 *that is capable of providing for the safety and education of students*
10 *who live within both redevelopment project areas and housing*
11 *assisted by redevelopment agencies. The attraction of new*
12 *businesses to redevelopment project areas depends upon the*
13 *existence of an adequately trained workforce, which can only be*
14 *accomplished if education at the primary and secondary schools*
15 *is adequate. The ability of communities to build residential*
16 *development and attract residents in redevelopment project areas*
17 *depends upon the existence of adequately maintained and operating*
18 *schools serving the redevelopment project area. The development*
19 *and maintenance of low- and moderate-income housing that are*
20 *both within redevelopment project areas and throughout the*
21 *community can only be successful if adequate schools exist to serve*
22 *the residents of this housing.*

23 *(2) Redevelopment agencies have financially assisted schools*
24 *that benefit and serve the project area by paying part or all of the*
25 *land and the construction of school facilities and other*
26 *improvements. Redevelopment agencies have financially assisted*
27 *schools to alleviate the financial burden or detriment caused by*
28 *the establishment of redevelopment project areas.*

29 *(3) Because of the reduced funds available to the state to assist*
30 *schools that benefit and serve redevelopment project areas during*
31 *the 2008–09 fiscal year, it is necessary for redevelopment agencies*
32 *to make additional payments to assist the programs and operations*
33 *of these schools to ensure that the objectives stated in this act can*
34 *be met.*

35 *(4) The payments to schools pursuant to this act are of benefit*
36 *to redevelopment project areas.*

37 *(b) It is the intent of the Legislature in enacting this act to create*
38 *a procedure to ensure that the funds contributed by a*

1 *redevelopment agency pursuant to this act are allocated to school*
2 *districts serving pupils living within or in the vicinity of any project*
3 *area of that redevelopment agency.*

4 SEC. 2. *Section 33685 of the Health and Safety Code is*
5 *amended to read:*

6 33685. (a) (1) For the 2008–09 fiscal year a redevelopment
7 agency shall remit, as determined by the Director of Finance, ~~prior~~
8 ~~to May 10~~ *on or before June 30*, an amount equal to the amount
9 determined for that agency pursuant to subparagraph (K) of
10 paragraph (2) to the county auditor for deposit in the county
11 Educational Revenue Augmentation Fund, created pursuant to
12 Article 3 (commencing with Section 97) of Chapter 6 of Part 0.5
13 of Division 1 of the Revenue and Taxation Code. Notwithstanding
14 any other law, in the 2008–09 fiscal year, no funds deposited in
15 the county Educational Revenue Augmentation Fund pursuant to
16 this section shall be distributed to a community college district.

17 (2) On or before November 15, 2008, the Director of Finance
18 shall do all of the following:

19 (A) (i) Determine the value of ~~five~~ 5 percent of the statewide
20 total property tax revenue apportioned to agencies pursuant to
21 Section 33670.

22 (ii) If the value determined pursuant to clause (i) exceeds
23 three-hundred fifty million dollars (\$350,000,000), the value
24 determined in clause (i) shall be allocated to each agency as
25 provided in paragraphs (B) to (J), inclusive.

26 (iii) If the value determined pursuant to clause (i) does not
27 exceed three-hundred fifty million dollars (\$350,000,000),
28 three-hundred fifty million dollars (\$350,000,000) shall be
29 allocated to each agency as provided in subparagraphs (B) to (J),
30 inclusive.

31 (B) Determine the net tax increment apportioned to each agency
32 pursuant to Section 33670, excluding any amounts apportioned to
33 affected taxing entities pursuant to Section 33401, 33607.5, or
34 33676.

35 (C) Determine the net tax increment apportioned to all agencies
36 pursuant to Section 33670, excluding any amounts allocated to
37 affected taxing entities pursuant to Section 33401, 33607.5, or
38 33676.

1 (D) Determine a percentage factor by dividing the amount
2 determined pursuant to subparagraph (A) by two and then by the
3 amount determined pursuant to subparagraph (C).

4 (E) Determine an amount for each agency by multiplying the
5 amount determined pursuant to subparagraph (B) by the percentage
6 factor determined pursuant to subparagraph (D).

7 (F) Determine the total amount of property tax revenue
8 apportioned to each agency pursuant to Section 33670, including
9 any amounts allocated to affected taxing entities pursuant to
10 Section 33401, 33607.5, or 33676.

11 (G) Determine the total amount of property tax revenue
12 apportioned to all agencies pursuant to Section 33670, including
13 any amounts allocated to affected taxing entities pursuant to
14 Section 33401, 33607.5, or 33676.

15 (H) Determine a percentage factor by dividing the amount
16 determined pursuant to subparagraph (A) by two and then by the
17 amount determined pursuant to subparagraph (G).

18 (I) Determine an amount for each agency by multiplying the
19 amount determined pursuant to subparagraph (F) by the percentage
20 factor determined pursuant to subparagraph (H).

21 (J) Add the amount determined pursuant to subparagraph (E)
22 to the amount determined pursuant to subparagraph (I).

23 (K) Notify each agency, each legislative body, and each county
24 auditor of each agency's amount. The county auditor shall deposit
25 these amounts in the county Educational Revenue Augmentation
26 Fund pursuant to paragraph (1).

27 (3) The obligation of any agency to make the payments required
28 pursuant to this subdivision shall be subordinate to the lien of any
29 pledge of collateral securing, directly or indirectly, the payment
30 of the principal, or interest on any bonds of the agency including,
31 without limitation, bonds secured by a pledge of taxes allocated
32 to the agency pursuant to Section 33670. Agencies shall factor in
33 the fiscal obligations created by this subdivision when issuing
34 bonded indebtedness.

35 (b) (1) Notwithstanding any other law, to make the full
36 allocation required by this section, an agency may borrow up to
37 50 percent of the amount required to be allocated to the Low and
38 Moderate Income Housing Fund, pursuant to Sections 33334.2,
39 33334.3, and 33334.6, unless, in a given fiscal year, executed
40 contracts exist that would be impaired if the agency reduced the

1 amount allocated to the Low and Moderate Income Housing Fund
2 pursuant to the authority of this subdivision.

3 (2) As a condition of borrowing pursuant to this subdivision,
4 an agency shall make a finding that there are insufficient other
5 moneys to meet the requirements of subdivision (a). Funds
6 borrowed pursuant to this subdivision shall be repaid in full within
7 10 years following the date on which moneys are remitted to the
8 county auditor for deposit in the county Educational Revenue
9 Augmentation Fund pursuant to subdivision (a).

10 (c) To make the allocation required by this section, an agency
11 may use any funds that are legally available and not legally
12 obligated for other uses, including, but not limited to, reserve funds,
13 proceeds of land sales, proceeds of bonds or other indebtedness,
14 lease revenues, interest, and other earned income. No moneys held
15 in a low- and moderate-income fund as of July 1 of the applicable
16 fiscal year may be used for this purpose.

17 (d) The legislative body shall ~~by March 1 of each year, on or~~
18 *before June 30, 2009*, report to the county auditor as to how the
19 agency intends to fund the allocation required by this section, or
20 that the legislative body intends to remit the amount in lieu of the
21 agency pursuant to Section 33687.

22 (e) The allocation obligations imposed by this section, including
23 amounts owed, if any, created under this section, are hereby
24 declared to be an indebtedness of the redevelopment project to
25 which they relate, payable from taxes allocated to the agency
26 pursuant to Section 33670, and shall constitute an indebtedness of
27 the agency with respect to the redevelopment project until paid in
28 full.

29 (f) It is the intent of the Legislature, in enacting this section,
30 that these allocations directly or indirectly assist in the financing
31 or refinancing, in whole or in part, of the community's
32 redevelopment project pursuant to Section 16 of Article XVI of
33 the California Constitution.

34 (g) In making the annual determinations required by subdivision
35 (a), the Director of Finance shall use those amounts reported in
36 "Table 7, Assessed Valuation, Tax Increment Distribution and
37 Statement of Indebtedness" for all agencies and for each agency
38 in the most recent published edition of the Controller's Community
39 Redevelopment Agencies Annual Report made pursuant to Section
40 12463.3 of the Government Code.

1 (h) If revised reports have been accepted by the Controller on
2 or before September 1 of the applicable fiscal year, the Director
3 of Finance shall use appropriate data that has been certified by the
4 Controller for the purpose of making the determinations required
5 by subdivision (a).

6 (i) Nothing in this section shall be construed as extending the
7 time limits on the ability of agencies to do any of the following:

8 (1) Establish loans, advances, or indebtedness.

9 (2) Receive tax increment revenues.

10 (3) Exercise eminent domain powers.

11 (j) *(1) Notwithstanding Sections 97.2 and 97.3 of Revenue and*
12 *Taxation Code, the county auditor-controller shall distribute the*
13 *funds that are remitted to the county Educational Revenue*
14 *Augmentation Fund by a city-operated or county-operated*
15 *redevelopment agency pursuant to this section only to a K-12*
16 *school district that is located partially or entirely within any project*
17 *area of that redevelopment agency in an amount proportional to*
18 *the average daily attendance of each school district.*

19 *(2) The county auditor-controller shall notify each K-12 school*
20 *district, and the State Department of Education, of the amount of*
21 *Educational Revenue Augmentation Fund moneys a school district*
22 *receives pursuant to this section from each redevelopment agency.*
23 *The county auditor-controller shall also notify each K-12 school*
24 *district receiving funds pursuant to paragraph (1) of the project*
25 *area boundaries of each redevelopment agency from which the*
26 *K-12 school district received funds.*

27 *(3) (A) The county superintendent of schools shall provide the*
28 *average daily attendance reported for each school district as of*
29 *the Second Principal Apportionment for the 2008–09 fiscal year*
30 *to the county auditor-controller.*

31 *(B) The county auditor-controller shall, based on information*
32 *provided by the county superintendent of schools pursuant to*
33 *subparagraph (A), allocate the funding pursuant to this subdivision*
34 *to those school districts within the county that are not excess tax*
35 *school entities, as defined in subdivision (n) of Section 95 of the*
36 *Revenue and Taxation Code.*

37 *(4) The county auditor-controller shall notify, on or before*
38 *October 1, 2009, the Department of Finance of the amount of*
39 *funding apportioned to each school district pursuant to this*
40 *subdivision.*

1 (k) (1) For the 2008–09 fiscal year, the amount apportioned
2 by the Superintendent of Public Instruction to each school district
3 pursuant to Section 42238 of the Education Code shall be reduced
4 by the total amount of Educational Revenue Augmentation Fund
5 moneys a school district receives, regardless of the actual date
6 the funds are received, pursuant to this section from each
7 redevelopment agency.

8 (2) (A) For a fiscal year in which the amount required to be
9 applied by the state pursuant to Section 8 of Article XVI of the
10 California Constitution is determined pursuant to paragraph (2)
11 or (3) of subdivision (b) of that section and for the purposes of
12 making the computations required by Section 8 of Article XVI of
13 the California Constitution, “General Fund revenues appropriated
14 for school districts,” as defined in subdivision (c) of Section 41202
15 of the Education Code, for the 2008–09 fiscal year, and included
16 within the “total allocations to school districts and community
17 college districts from General Fund proceeds of taxes appropriated
18 pursuant to Article XIII B,” as defined in subdivision (e) of Section
19 41202 of the Education Code, for the 2008–09 fiscal year, shall
20 be reduced by the total amount of Educational Revenue
21 Augmentation Fund moneys a school district receives, regardless
22 of the actual date the funds are received, pursuant to this section
23 from each redevelopment agency.

24 (B) For a fiscal year in which the amount required to be applied
25 by the state pursuant to Section 8 of Article XVI of the California
26 Constitution is determined pursuant to paragraph (1) of subdivision
27 (b) of that section, this section shall be deemed to be “qualifying
28 provisions” for purposes of Section 41204.1 of the Education Code
29 and the Director of Finance shall recalculate the percentage
30 determined pursuant to paragraph (1) of subdivision (b) of Section
31 8 of Article XVI of the California Constitution in a manner
32 consistent with Section 41204.1 of the Education Code.

33 (3) For the purposes of making the computations required by
34 Section 8 of Article XVI of the California Constitution, the total
35 amount of Educational Revenue Augmentation Fund moneys a
36 school district receives, regardless of the actual date the funds are
37 received, pursuant to this section from each redevelopment agency
38 shall be deemed to be “allocated local proceeds of taxes,” as
39 defined in subdivision (g) of Section 41202 of the Education Code,
40 for the 2008–09 fiscal year.

1 *(l) For purposes of this section, the following definitions shall*
2 *apply:*

3 *(1) “City-operated redevelopment district” means a*
4 *redevelopment agency created by the legislative body of a city.*

5 *(2) “County-operated redevelopment district” means a*
6 *redevelopment agency created by the legislative body of a county*
7 *or city and county.*

8 *(3) “K-12 school district” has the same meaning as any school*
9 *district, as defined in Section 80 of the Education Code.*

10 *(m) This section shall not be construed to increase any*
11 *allocations of excess, additional, or remaining funds that would*
12 *otherwise have been allocated to cities, counties, cities and*
13 *counties, or special districts pursuant to clause (i) of subparagraph*
14 *(B) of paragraph (4) of subdivision (d) of Section 97.2 of, clause*
15 *(i) of subparagraph (B) of paragraph (4) of subdivision (d) of*
16 *Section 97.3 of, or Article 4 (commencing with Section 98) of*
17 *Chapter 6 of Part 0.5 of Division 1 of, the Revenue and Taxation*
18 *Code had this section not been enacted.*

19 *(n) The Legislature finds and declares that subdivision (j) is*
20 *added to this section in furtherance of the legislative findings and*
21 *declarations contained in subdivisions (a) and (d) of Section 33680.*

22 *SEC. 3. If the Commission on State Mandates determines that*
23 *this act contains costs mandated by the state, reimbursement to*
24 *local agencies and school districts for those costs shall be made*
25 *pursuant to Part 7 (commencing with Section 17500) of Division*
26 *4 of Title 2 of the Government Code.*

27 *SEC. 4. This act is an urgency statute necessary for the*
28 *immediate preservation of the public peace, health, or safety within*
29 *the meaning of Article IV of the Constitution and shall go into*
30 *immediate effect. The facts constituting the necessity are:*

31 *In order to address the fiscal emergency of the state at the*
32 *earliest possible time, it is necessary that this act take effect*
33 *immediately.*

34 ~~*SECTION 1. It is the intent of the Legislature to enact statutory*~~
35 ~~*changes relating to the Budget Act of 2009.*~~